

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTINE BONATZ and RONALD
BONATZ,

Plaintiffs,

Case Number: 10-13994

v.

HON. MARIANNE O. BATTANI

MACY'S INC., a foreign corporation,

Defendants.

/

ORDER GRANTING PLAINTIFFS LEAVE TO FILE AMENDED COMPLAINT

Before the Court is Plaintiffs' Motion for Reconsideration for Joinder of CBSG, Inc. (Capital Building Services Group, Inc.) as a Party Defendant and to Amend Complaint (Doc. No. 18). The Court has reviewed all the filings and finds oral argument will not aid in the resolution of this dispute. See E. D. Mich. LR 7.1(e)(2). For the reasons discussed below, the Court **GRANTS** Plaintiffs leave to amend their complaint.

Plaintiffs filed their complaint in Oakland County Circuit Court, alleging claims against Defendant Macy's Inc., for premises liability. Defendant removed to his Court on the basis of diversity of citizenship. Plaintiffs subsequently moved to amend their complaint to add as a defendant, CBSG, a company that provided janitorial and maintenance services to the Macy's store where Plaintiff Christine Bonatz fell.

The Court denied the motion, finding among other things that the addition of CBSG would destroy diversity because Plaintiffs identified CBSG as a Michigan corporation, and Plaintiffs are citizens of Michigan. See 28 U.S.C. § 1332. The Court entered the order on March 24, 2011.

Over a month later, on April 25, 2011, Plaintiffs moved for reconsideration. They now assert that CBSG is an Illinois corporation, with its principal place of business in Illinois. Therefore, complete diversity of citizenship exists.

Under the local rules, a motion for reconsideration must be filed within fourteen days of the entry of the order being challenged. E.D. Mich. L.R. 7.1(h)(1). Plaintiffs' motion does not meet the deadline. Nevertheless under Rule 60(b)(1), a court may grant relief from an order on the ground of mistake. FED. R. CIV. P. 60(b). Rule 60 does not impose the fourteen day time requirement; it merely requires that a Rule 60(b)(1) motion be made "within a reasonable time" and no more than a year after the entry of the challenged order. FED. R. CIV. P. 60(e)(1).

Here, Plaintiffs brought the motion within a reasonable time. Because complete diversity will not be destroyed by the addition of CBSG as a defendant, and leave to amend is freely granted, the Court finds Plaintiffs may amend their complaint to add CBSG. The proposed amended complaint shall be filed on or before **May 25, 2011**.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Dated: May 18, 2011

CERTIFICATE OF SERVICE

Copies of this Order were served upon counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt
Case Manager